



# COMMONWEALTH of VIRGINIA

## DEPARTMENT OF ENVIRONMENTAL QUALITY

W. Tayloe Murphy, Jr.  
Secretary of Natural Resources

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Robert G. Burnley  
Director

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Tidewater Regional Director  
(757) 518-2000

### **SPECIAL ORDER BY CONSENT WITH THE HAMPTON ROADS SANITATION DISTRICT - BOAT HARBOR STP AND THE CITY OF HAMPTON (VPDES Permit No. VA0081256)**

#### **SECTION A: Purpose**

This is a special order by consent issued under the Authority of section 62.1-44.15(8a) of the Code of Virginia between the State Water Control Board, Hampton Roads Sanitation District, and the City of Hampton to resolve certain violations of environmental laws and regulations.

#### **SECTION B: Definitions**

Unless the context clearly indicates otherwise, the following words and terms have the meanings assigned to them below:

1. "Code" means the Code of Virginia (1950), as amended.
2. "Board" means the State Water Control Board, a permanent citizen's body of the Commonwealth of Virginia as described in Code §§ 62.1-44.7 and 10.1-1184.
3. "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Code § 10.1-1183.
4. "Director" means the Director of the Department of Environmental Quality.
5. "Regional Office" means the Tidewater Regional Office of the Department.
6. "Order" means this document, also known as a consent special order.
7. "Regulations" means 9 VAC 25-31-10 *et seq.* - Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation.
8. "HRSD" means the Hampton Roads Sanitation District, a political subdivision of the Commonwealth of Virginia.
9. "Hampton" means the City of Hampton, Virginia.
10. "STP" means sewage treatment plant.

#### **SECTION C: Findings of Facts and Conclusions of Law**

1. HRSD owns and operates the Boat Harbor STP which is located at 300 Terminal Avenue in Newport News, Virginia. The STP discharges treated wastewater into State waters at the James River.
2. The sanitary sewer collection system including its associated pump stations and

the discharge of treated wastewater from the Boat Harbor STP are the subject of VPDES Permit No. VA0081256, which became effective on August 3, 2000 and expires on August 3, 2005.

3. The sewage collection system, owned by HRSD and Hampton, receives excessive infiltration and inflow of rainwater resulting in overflows of untreated sewage to State waters at the following locations: 3000-4000 Chesapeake Avenue, Kecoughtan & Sunset Streets, LaSalle & Ervin Streets, Hampton Pump Station #1 service area and the Bridge Street pump station service area.
4. Section 62.1-44.5 of the Code and Virginia Regulation 9 VAC 25-31-50 prohibit the discharge of sewage except as authorized by a permit issued by the Board

#### **SECTION D: Agreement and Order**

Accordingly, the Board, by virtue of its authority in Code § 62.1-44.15(8a) orders and HRSD and Hampton agree to complete the following actions to remedy the violations described above and bring the facility into compliance:

1. HRSD shall perform the actions described in Appendix A to the Order.
2. Hampton shall perform the actions described in Appendix B to the Order.
3. HRSD shall promptly report all sewage overflows in accordance with the Boat Harbor VPDES Permit.
4. Hampton shall promptly report all sewage overflows in accordance with applicable laws and regulations.
5. HRSD shall submit semiannual reports to the DEQ on the status of the work required by Appendix A. The reports shall be due on July 1 and January 1, with the first report to be submitted by January 1, 2003.
6. Hampton shall submit semiannual reports to the DEQ on the status of the work required by Appendix B. The reports shall be due on July 1 and January 1, with the first report to be submitted by January 1, 2003.
7. All submittals required by this Order shall be mailed to: Department of Environmental Quality, Tidewater Regional Office, 5636 Southern Blvd., Virginia Beach, VA 23462, Att.: Francis L. Daniel, Regional Director.

#### **SECTION E: Administrative Provisions**

1. The Board may modify, rewrite, or amend the Order with the consent of HRSD and Hampton, for good cause shown by HRSD and Hampton, or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves those violations specifically identified herein. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.
3. For purposes of this Order and subsequent actions with respect to this Order, Hampton

and HRSD admit the jurisdictional allegations, but do not admit to the factual findings and conclusions of law contained herein. This Order is made by agreement and with the consent of the parties and does not constitute an admission of violation of any federal, state or local law, rule, regulation, certificate, permit, or standard.

4. HRSD and Hampton consent to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. HRSD and Hampton declare they have received fair and due process under the Administrative Process Act, Code § 2.2-4000 *et seq.*, and the State Water Control Law, and waive their right to any hearing or other administrative proceeding authorized or required by law or regulation, and to judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.
6. Failure by HRSD or Hampton to comply with their respective obligations under the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. HRSD and Hampton shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other act of God, war, strike, or such other occurrence. HRSD and Hampton must show that such circumstances resulting in noncompliance were beyond their control and not due to a lack of good faith or diligence on their part. HRSD and Hampton shall notify the Director of the Regional Office in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of this Order. Such notice shall set forth:
  - a. the reasons for the delay or noncompliance;
  - b. the projected duration of such delay or noncompliance;
  - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
  - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Director of the Regional Office within three working days of learning of any condition listed above, which the Parties intend to assert will result in the impossibility of compliance, shall constitute waiver of any claim of inability to comply with a requirement of this Order.

9. This Order is binding on the Parties hereto, their successors in interest, designees, and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee, HRSD and Hampton. Notwithstanding the foregoing, HRSD and Hampton agree to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to HRSD and Hampton. Termination of this Order, or of any obligation imposed in this Order, shall not operate to relieve HRSD and Hampton from their respective obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

By their signature below, HRSD and Hampton voluntarily agree to the issuance of this Order.

Oct. 7, 2003  
Date

Robert G. Burnley (R)  
Robert G. Burnley, Director  
Department of Environmental Quality

The terms and conditions of the Order are voluntarily accepted by HRSD.

Date: June 28, 2002 By: Edward R. Kinn, Acting  
Title: General Manager

State of Virginia  
City/County of Virginia Beach

The foregoing instrument was acknowledged before me this 6/28/02 by D. R. Edward  
Wheeler, General Manager of HRSD, on behalf of HRSD.  
D. Kinn

6/28/02  
Date

Shirley S. Croft  
Notary Public

My commission expires: 4/30/05

The terms and conditions of the Order are voluntarily accepted by Hampton.

Date: 6/27/02 By: George E. Wallace  
Title: City Manager

State of Virginia  
City/County of Hampton

The foregoing instrument was acknowledged before me this 6/27/02 by George E.  
Wallace, City Manager, on behalf of Hampton.

6/27/02  
Date

Conna L. Hingorani  
Notary Public

My commission expires: 7/31/03

APPENDIX A  
HAMPTON ROADS SANITATION DISTRICT

HRSD shall:

1. Install a permanent flow meter at HRSD's Bridge Street Pump Station (HRSD Pump Station 206) within 30 days from the effective date of this consent order.
2. Monitor, evaluate, and analyze flow meters installed at Hampton boundaries for effectiveness of I/I reduction program. Share this information with Hampton.
3. Assist the City of Hampton in evaluating the effectiveness of the work accomplished in items 3,5, and 6 of Appendix B.

APPENDIX B  
CITY OF HAMPTON

The City of Hampton shall:

1. By January 1, 2003, install magnetic flow meters at the following pump stations: 14, 30, 33, 101, 106, 107, and 112 (Claremont Avenue and Bridge Street Pump Station Service Areas).
2. Beginning March 1, 2003, obtain continuous flow data from all City of Hampton pump stations listed in Paragraphs 3, 4, and 5 below, to measure effectiveness of repair efforts. Flow data shall be available at the pump stations for review.
3. By January 1, 2005, complete television inspection of all pipelines, assess all manholes, determine repairs, estimate cost, and provide a schedule of repair for the following pump station flow areas: 1, 2, 17, 101, 102, 107, 111, 112, and HRSD 208 (Claremont Avenue Pump Station Service Area). Such a schedule shall be incorporated into this Order upon notification of its approval by the Director of the Tidewater Regional Office and implemented.
4. By July 1, 2004, complete smoke testing of all sewer lines in the following pump station flow areas: 7, 11, 12, 13, 14, 15, 16, 27, 30, 31, 32, 33, HRSD 203, HRSD 206, HRSD 211, HRSD 223, and HRSD 225 (Bridge Street Pump Station Service Area). Sources that do not require extensive labor will be repaired immediately upon identification and reported in the semi-annual reports.
5. By September 1, 2005, submit a schedule to remove inflow sources identified in Paragraph 3 above. Upon approval by the Regional Office, the schedule shall be incorporated into this Order and implemented.
6. By January 1, 2008, complete television inspection of all pipelines, assess all manholes, determine repairs, estimate cost, and provide a schedule of repair for the following pump station flow areas: 3, 4, 5, 6, 7, 11, 12, 13, 14, 15, 16, 21, 30, 31, 32, 33, HRSD 203, HRSD 206, HRSD 211, HRSD 223, and HRSD 225 (Bridge Street Pump Station Service Area). Such a schedule shall be incorporated into this Order upon notification of its approval by the Director of the Tidewater Regional Office.